24 May 1945

MEMORANDUM for:

The President.

SUBJECT: Policy for the separation from the Philippine Army of officers and men who served in any capacity during the Japanese regime.

When the Secretary of National Defense assumed his office he enunciated the policy that all members of the armed forces of the Philippines who had served the Japanese in any civilian or military capacity should not be retained in the Philippine Army. I attach a copy of the same as Addenda No. 1.

This policy was discussed with General Marshall, Chief of Staff, USAFFE. As a result of our conference on March 14, the Philippine Army Headquarters received from the USAFFE Headquarters the communication attached herein as Addenda No. 2.

By order of the Secretary of National Defense, on March 17, 1945, the Philippine Army Headquarters issued General Orders No. 20, a copy of which is attached as Addenda No. 3, setting the policy to be followed with regard to officers and enlisted men who had served under the Japanese regime.

To carry out the provisions of General Orders No. 20 two loyalty status boards, composed of five officers each who had not served in any capacity during the Japanese occupation, were appointed.

Admittedly, the members of the loyalty status boards are given no discretion whatsoever under the provision of General Orders No. 20. On them is entrusted only the duty of ascertaining the following fact: Has the officer or enlisted man under investigation accepted appointment or performed service in a military or civil capacity in any activity controlled by the Japanese or by the so-called puppet Philippine Republic? If so, only one recommendation is possible -- the party in question is to be dismissed from service or active duty in the Philippine Army.

The only two exceptions provided for to this inflexible, unjustifiably rigid policy are the cases of (1) individuals who ceased in their service of the enemy prior to September 20, 1944, and joined and participated actively with guerrilla forces or with United States forces, and, (2) officers and enlisted men of the Medical Service or Chaplain's Service who performed duties solely pertaining to the medical profession or to religious activities.

Yet, paragraph 4 of General Orders No. 20 states that "final decision as to the action to be taken in each case will be made by this headquarters " (Philippine Army). Was it intended that the Chief of Staff act automatically, merely to check on the veracity of the facts gathered by the Loyalty Boards, and impose on him the obligation of making only one possible decision in case the facts should have been verified? Or was it intended that the Chief of Staff use his discretion in the evaluation of acts and the circumstances of their commission and, in the light of the highest established official policy, decide with justice? The latter is the only sensible interpretation. Discretion is an indispensable element of the power of decision. Section 4, as I interpret it, confers on me the discretion to decide"as to the action to be taken in each case". I would have vigorously protested at the time General Orders No. 20 was issued had I understood that the authority given me to decide consisted in merely checking the factual data gathered by the Loyalty Status Boards and reduced Headquarters to a simple mechanical instrument.

I have argued with the Secretary that there are cases where, although an officer or enlisted man had served in either a civilian or military capacity during the Japanese occupation, yet he had been in continuous touch with the guerrillas and had given them valuable information, thus thwarting many a Japanese plan. In other instances, officers of the Army who served in the Bureau of Constabulary, utilized their positions to help guerrillas, not only by passing valuable information regarding Japanese concentrations and movement of troops, but also by assisting in the capture of guns and ammunition from Constabulary barracks.

Your attention is invited to the attached copy (Addenda No. 4) of a communication received by my office from Major Robert D. Laphan, Commanding Officer of the USAFFE Luzon Guerrilla Army Forces, in which he states:

"2. These men while supposedly working for the enemy were actually risking their lives protecting

the guerrillas by informing them of the intentions of the Japanese and in many cases securing the release of captured guerrillas. The members of this command would not have been accepted if there had been any question of their loyalty. Many of the officers have been known by me for several years, and though they attended conferences and meetings, at no time did any of them disclose our secrets to the enemy.

"3. Since my first meeting with Major Arellano in February of 1944, he has done everything in his power to cooperate with the guerrillas and has worked untiringly for the best interests of the people.

"4. The men who joined the Constábulary did not do so because of any loyalty or love for the Japanese, but because in this way they thought they could best help and protect their countrymen. Anyone who has been here through the occupation can inform you of the great need there was for a police force. Not all guerrillas were motivated by purely patriotic reasons but were merely outlaws taking advantage of a national crisis. Whereas the true guerrillas were not always able to cope with these outlaws due to Japanese interference, the Constabulary could move about freely, often being reenforced by guerrillas posing as Constabulary. The Constabulary also stood as a block and a threat against the Japanese to prevent them from torturing and abusint the people.

"5. It is true that many of the men who worked for the Japanese were motivated by selfish ambition and avarice; this was true of some members of the guerrillas. Such men, however, are not to be found in this organization. Although for obvious reasons they were not listed on official rosters, the members of this command have been with the organization for more than a year, in some cases two years. They have all proved themselves able and courageous fighters both before and after the arrival of the American forces.

"6. Fighting side by side with the American combat units, they have earned and merited great respect from the soldiers and officers of the Army of the United States with whom they have served. I sincerely hope and trust that their own nation will give them the same respect and gratitude".

/s/ Robert B. Lapham
/t/ ROBERT B. LAPHAM
Major, U.S. Army
Commanding".

I contend, Mr. President, that the policy laid down and applied by the Secretary of National Defense is contrary to the policy which you enunciated in your speech delivered over the "Voice of Freedom" on November 23, 1944. Allow me to quote a part of it:

> "We cannot close our eyes to the realities of the Japanese occupation. It is cruel and harsh. An arbitrary government has been imposed on the Filipino people by the sword and the initial misfortune of American and Filipino arms left the majority of eighteen million Filipinos no other recourse but to submit to a despotic regime if they were to survive. Not all public officials could take to the hills to carry on the heroic struggle. Some had to remain in their posts to maintain a semblance of government, to protect the population from the oppressor to the extent possible by human ingenuity and to comfort the people in their misery. Had their services not been available, the Japanese would either have themselves governed directly and completely or utilized unscrupulous Filipino followers capable of any treason to their people. The result would have been calamitous and the injuries inflicted to our body politic beyond cure.
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> "The problem under consideration must be solved with justice and dignity. Every case should be examined impartially and decided on its own merits. Persons holding public office during enemy occupation, for the most part, fall within three categories; those prompted by a desire to protect the people, those actuated by fear of enemy reprisals, and those motivated by disloyalty to our government and cause. The motives which caused the retention of the office and conduct while in office, rather than the sole fact of its occupation, will be the criteria upon which such persons will be judged.
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> "Those charged with giving aid and comfort to the enemy, whether office holders or private citizens, with being traitors and disloyal to the governments of the Philipines and of the United States will be dealt with in accordance with law. But for the common good and our national welfare, I appeal to all the citizens of the Philippines to support their government in meeting its responsibilities by lawful procedures. Persons in possession of information on acts of disloyalty to the Commonwealth Government or that

of the United States should report it to the authorities. But under no circumstances should any person or group take the law into their hands".

The Secretary of National Defense has consistently assumed the powers to reverse the decision taken by the Headquarters. Officers and men are now being summarily separated from the service, over my objections, regardless of their motives for and conduct while in office. General Orders No. 20 has established as the sole and conclusive criterion the DATE up to which he should have remained in his position, viz., September 20, 1944; so that, in effect, any officer or enlisted man who continued ostensively to render service to the Japanese subsequent to this date, but who neverthelsss actively cooperated with the guerrillas at the risk not only of his life, but likewise of the lives of the members of his family, must automatically be separated from the service in disgrace.

I am in complete accord with the policy of eliminating from the Philippine Army all officers and men who voluntarily served and gave aid and comfort to the enemy. But the supreme official policy is "that every case should be examined impartially and decided on its own merits", as enunciated by you, as the Commander in Chief of the Armed forces of the Philippines. I shall follow it until such time as you reverse it.

Such action by the Secretary of National Defense is completely opposed to all precedents. Past Secretaries, cognizant of the fact that their Office is not a part of "Headquarters, Philippine Army", have refrained from interferring with internal administrative functions of the latter body. In fact, Secretary Cabili himself recognized that when, in a press release published in the "Free Philippines" issue of March 26, 1945, he said:

"I shall not interfere with the internal functioning of the Philippine Army in so far as it pertains to the technical and administrative phases".

His acts, however, have until now, been in consistent opposition with his above statement. On April 18, 1945, he issued a memorandum to the Chief of Staff, Philippine Army, that breaks all precedents and has no bases in law, requiring that he be consulted before the issuance by Headquarters, Philippine Army, of (a) general orders, bulletins, and policies; (b) special orders and promotion of officers; (c) special orders on transfers of personnel holding key positions; and (d) action taken on General Orders No. 20.

In compliance with this memorandum, I forwarded to the Secretary of National Defense the records of the cases of several officers passed by the Loyalty Status Boards and whose recommendations I deemed proper to disapprove under the authority granted me in paragraph 4 above quoted, and the Secretary assumed the power of reversing those decisions.

Taking advantage further, of my absence from Manila on an inspection trip to the Visayas, the Secretary of National Defense again interfered with internal and administrative matters of Headquarters, Philippine Army, when he requested USAFFE Headquarters to recall from Leyte eight officers who, upon orders from USAFFE Headquarters, were on their way to the States to attend the Command and General Staff School. His reason for recalling them is that they had not been cleared by the Loyalty Status Boards. He was misinformed. All these men had been cleared and records of Headquarters, Philippine Army, can prove it. By recalling them, without my knowledge, he has disrupted the plans of Headquarters, Philippine Army, to send officers to the States in compliance with instructions from USAFFE Headquarters, and broken the morale of the officers concerned who are graduates of other U. S. Army schools in the United States or in the Philippines. Furthermore, the selection of officers to study in various U. S. Army Schools is a command responsibility which is vested exclusively upon the Chief of Staff, Philippine Army.

In view of the foregoing considerations, and in consonance with the policy which you have established it is recommended:

1. That complete and impartial investigation be conducted of all officers and men who held a position in any Japanese controlled activity;

2. That this investigation, however, should look into the motives and more particularly, the conduct of these men while retaining their positions, irrespective of the date when or up to when they held such office;

3. That before any separation be ordered, should the individual ask for it, he be granted the chance to face trial in a corresponding military tribunal;

4. That ultimate decision be vested upon this Headquarters, subject of course to the President's power to review and alter the same in his capacity as Commander-in-Chief of the Army of the Philippines; and

5. Finally, that in order that the above recommendations may be carried out, General Orders No. 20 be accordingly amended.

BASILIO J. VALDES
Major-General, PA
Chief of Staff

BJV:FHO.